

E-Filed 5/3/2011

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

RICK WOODS, Individually and On Behalf of
All Others Similarly Situated,

|Case No. 11-cv-01263-HRL JF

Plaintiff,

**[PROPOSED] PRETRIAL ORDER NO. 1
APPOINTING INTERIM CLASS COUNSEL
AND CONSOLIDATING ACTIONS
(AS MODIFIED BY THE COURT)**

V.

GOOGLE INC.,

Defendant.

The Court concludes that the motion for order appointing interim class counsel and consolidating actions is appropriate for disposition without oral argument pursuant to Local Rule 7-1(b). The hearing set for May 13, 2011 is VACATED.

23

WHEREAS, the above-captioned action asserts claims on behalf of a putative class of persons who advertised through Google Inc.’s (“Google”) AdWords program;

WHEREAS, consolidation of actions that arises out of the same operative facts as the above captioned action would avoid duplication and waste; and

WHEREAS, appointment of Interim Class Counsel is appropriate and consistent with the Federal Rules of Civil Procedure, the recommendations of the *Manual for Complex Litigation*, Fourth (2004) and Fed. R. Civ. P. 23(g);

NOW, THEREFORE, THE COURT ORDERS as follows:

I. CONSOLIDATION OF SUBSEQUENTLY FILED OR TRANSFERRED ACTIONS

When a case that arises out of the same operative facts as the above captioned action is hereinafter filed or transferred to this Court, it is hereby consolidated pursuant to Fed. R. Civ. P. 42(a) with the above captioned matter (the “Consolidated Action”).

The Court requests the assistance of counsel in calling to the attention of the Clerk of this Court the filing or transfer of any case that might properly be consolidated as part of the Consolidated Action.

When a case that arises out of the same operative facts as the Consolidated Action is hereinafter filed in this Court or transferred from another Court, the Clerk of this Court shall:

- (a) File a copy of this Order in the separate file for such action;
- (b) Mail a copy of this Order to the attorneys for the plaintiff(s) in the newly-filed or transferred case and to any new defendant(s) in the newly-filed case; and
- (c) Make the appropriate entry in the master docket for the Consolidated Action (No. 11-cv-01263-HRL).

Each new case that arises out of the subject matter of the Consolidated Action which is filed in this Court or transferred to this Court, shall be consolidated with the Consolidated Action and this Order shall apply thereto, unless a party objects to consolidation within ten (10) days after the date upon which a copy of this Order is served on counsel for such party by filing an application for relief and this Court deems it appropriate to grant such application.

1 **II. APPOINTMENT OF INTERIM CO-CLASS COUNSEL**

2 Pursuant to Fed. R. Civ. P. 23(g)(3), the Court designates Barroway Topaz Kessler Meltzer
3 & Check, LLP and Nix Patterson & Roach, LLP to act as Interim Co-Class Counsel for plaintiffs in
4 this action and all subsequently filed, related actions consolidated herewith, with the responsibilities
5 hereafter described.

6 Interim Co-Class Counsel shall have the authority over the following matters on behalf of
7 plaintiff and the putative class in this action:

8 (a) directing, coordinating, and supervising the prosecution of plaintiffs' claims in
9 the action, including the drafting and filing of any amended complaints, opposing
10 motion(s) to dismiss by any defendant(s), as well as drafting and filing any class
11 certification motion and any matters pertaining thereto;

12 (b) initiating and conducting discovery, including, without limitation, coordinating
13 discovery with defense counsel, preparing written interrogatories, requests for
14 admissions, and requests for production of documents;

15 (c) directing and coordinating the examination of witnesses in depositions;

16 (d) retaining experts;

17 (e) communicating with the Court;

18 (f) communicating with defense counsel; and

19 (g) conducting settlement negotiations.

20 No motion shall be initiated or filed on behalf of any plaintiff in this action except through
21 Interim Co-Class Counsel.

22 Service of pleadings and other papers by defendant(s) shall be made only upon Barroway
23 Topaz Kessler Meltzer & Check, LLP or Nix Patterson & Roach, LLP, who are authorized and
24 directed to accept service on behalf of plaintiff(s) in this action and any later actions that may be
25 consolidated herewith.

26 Dated: 5/3/2011

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HONORABLE HOWARD R. LEONARD JEREMY FOGL
UNITED STATES MAGISTRATE JUDGE
District

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